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1647

PTO/SB/21 (05-03)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	37	Application Number	09/724,961
		Filing Date	November 28, 2000
		First Named Inventor	Schenk, Dale B.
		Art Unit	1647
		Examiner Name	Nichols
		Attorney Docket Number	15270J-004752US

**ENCLOSURES (Check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form (PTO/SB/17) (1 p., submitted in duplicate)  <input type="checkbox"/> Fee Attached  <input checked="" type="checkbox"/> Supplemental Amendment (7 pp) w/attached Appendix (5 pp)  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input checked="" type="checkbox"/> Supplemental Information Disclosure Statement (5 pages) w/ attached PTO/SB/08A (2 pages) and PTO/SB/08B (4 pages) w/o references 340-406  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input checked="" type="checkbox"/> Replacement Drawing Sheets (5 pp)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  1. Statement Under MPEP §2406.02 (4 pp) w/attached Exhibit 1 (1 p); and,  2. Return Postcard.
Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual	Townsend and Townsend and Crew LLP Rosemarie L. Celli Reg. No. 42,397
Signature	<i>Rosemarie L. Celli</i>
Date	October 10, 2003

**CERTIFICATE OF MAILING**

Express Mail Label: EV 337 296 117 US	
I hereby certify that this correspondence is being deposited with the United States Postal Service with "Express Mail Post Office to Address" service under 37 CFR 1.10 on this date October 9, 2003 and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450	
Typed or printed name	Daniel Miranda
Signature	<i>[Signature]</i>
Date	October 10, 2003



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P.O. Box 1450  
Alexandria, VA 22313-1450

By:   
Daniel Miranda

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/724,961  
Filed: November 28, 2000  
TC/AU: 1600/1647  
Examiner: Christopher J. Larson

Confirmation No.: 9453

Docket No.: 15270J-004752US  
Customer No.: 20350

STATEMENT UNDER MPEP § 2406.02

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned, Rosemarie L. Celli, attorney of record authorized to act on behalf of the Applicant and Assignee in matters relating to the subject Patent Application, does hereby declare and state that:

1. The cell line designated RB44-10D5.19.21 producing the antibody 10D5 described at *e.g.*, the paragraph beginning on p. 68, line 17, Table 6, p. 69, and the paragraph beginning on page 83, line 14 of the above-captioned application was deposited at the American

Type Culture Collection on April 8, 2003 and given accession number PTA-5129. The address of the American Type Culture Collection (ATCC) is 10801 University Boulevard, Manassas, VA 20110-2209. The deposit was made pursuant to the provisions of the Budapest Treaty. A copy of the ATCC receipt is attached as Exhibit 1.

2. The antibody 10D5, produced by the cell line identified in paragraph 1, is also described at *e.g.*, the paragraph beginning on p. 68, line 17, Table 6, p. 69, and the paragraph beginning on page 83, line 14 of U.S. Application No. 09/580,518, filed May 26, 2000; the paragraph beginning on page 57, line 23 and at Table 6, page 58 and the paragraph beginning on page 70, line 12 of U.S. Application No. 322,289 filed May 28, 1999; the paragraph beginning at page 57, line 23 and at Table 6 p. 58 of U.S. Application No. 09/201,430, filed November 30, 1998; and, the paragraph beginning on p. 32, lines 21-31 of U.S. Application No. 60/080,970, filed April 7, 1998. The above-captioned application is a continuation of U.S. Application No. 09/580,015 filed May 26, 2000, which is a continuation-in-part of U.S. Application No. 322,289 filed May 28, 1999, which is a continuation-in-part of U.S. Application No. 09/201,430, filed November 30, 1998, which is an application claiming the benefit under 35 USC 119(e) of U.S. Application No. 60/080,970, filed April 7, 1998.

3. The cell line designated RB96 3D6.32.2.4 producing the antibody 3D6 described at *e.g.*, the paragraph beginning on page 93, line 18 and the paragraph beginning on p. 107, line 26 of the above-captioned application was deposited at the American Type Culture Collection on April 8, 2003 and given accession number PTA-5130. The address of the American Type Culture Collection (ATCC) is 10801 University Boulevard, Manassas, VA 20110-2209. The deposit was made pursuant to the provisions of the Budapest Treaty. A copy of the ATCC receipt is attached as Exhibit 1.

4. The antibody 3D6, produced by the cell line identified in paragraph 3, is also described at *e.g.*, the paragraph beginning on page 93, line 18 and the paragraph beginning on p. 107, line 26 of U.S. Application No. 09/580,518, filed May 26, 2000; the paragraph beginning on p. 107, line 26 of U.S. Application No. 322,289 filed May 28, 1999; the paragraph beginning on p. 76, line 22 of U.S. Application No. 09/201,430, filed November 30, 1998; and, the paragraph beginning on p. 27, lines 10-11 U.S. Application No. 60/080,970, filed April 7, 1998. The above-captioned application is a continuation of U.S. Application No. 09/580,015 filed May 26, 2000, which is a continuation-in-part of U.S. Application No. 322,289 filed May 28, 1999, which is a continuation-in-part of U.S. Application No. 09/201,430, filed November 30, 1998, which is an application claiming the benefit under 35 USC 119(e) of U.S. Application No. 60/080,970, filed April 7, 1998.

5. The cell lines identified in paragraphs 1 and 3 above will be maintained at the ATCC and replaced in the event of mutation, nonviability or destruction for a period of at least five (5) years after the most recent request for release of a sample was received by ATCC, for a period of at least thirty (30) years after the date of the deposit, or during the enforceable life of the related patent, whichever period is longest.


6. All restrictions, on the availability to the public of the cell lines identified in paragraphs 1 and 3 above will be irrevocably removed upon the issuance of a patent from the above-captioned application.

7. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so

SCHENK, Dale B.  
Application No. 09/724,961  
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made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: October 10, 2013



Rosemarie L. Celli, Reg. No. 42,397

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RLC:lah  
60019354 v1

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.**

**To: (Name and Address of Depositor or Attorney)**

Elan Pharmaceuticals, Inc.  
Attn: Nina Ashton  
800 Gateway Boulevard  
South San Francisco, CA 94080

**Deposited on Behalf of:** Elan Pharmaceuticals, Inc.

**Identification Reference by Depositor:**

Murine Hybridoma Cell Line: RB44-10D5.19.21  
Murine Hybridoma Cell Line: RB96 3D6.32.2.4

**Patent Deposit Designation**

PTA-5129  
PTA-5130

The deposits were accompanied by:    a scientific description    a proposed taxonomic description indicated above. The deposits were received April 8, 2003 by this International Depository Authority and have been accepted.

**AT YOUR REQUEST:**   X   We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested May 5, 2003. On that date, the cultures were viable.

**International Depository Authority:** American Type Culture Collection, Manassas, VA 20110-2209 USA.

**Signature of person having authority to represent ATCC:**

Marie Harris  
Marie Harris, Patent Specialist, ATCC Patent Depository

**Date:** June 2, 2003

cc: Joe Liebeschuetz  
Ref: Docket or Case No.: 15270J-004720US

Exhibit 1